

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2343
)	CONSENT ORDER FOR PROBATION
VIRGINIA RUTZ, D.O.)	OF LICENSE
Holder of License No. 3090 for the)	
practice of osteopathic medicine)	
in the State of Arizona.)	
_____)	

FINDINGS OF FACT

1. Virginia Rutz, D.O., (hereafter "Respondent"), is a licensee of the Board and the holder of License No. 3090. Respondent's license was issued in March 26, 1996 and she obtained employment at Oracle Family Healthcare Clinic in April, 1996.

2. During the course of employment, another physician at the clinic requested that the Respondent prescribe pain medication for him on a number of occasions. The Respondent complied with this physician's requests, but failed to make all appropriate medical notations in the physician's chart.

3. In the early part of 1997, Respondent began to experience serious pain and discomfort as a result of gynecological problems. The Respondent obtained prescriptions for a controlled substance to alleviate her pain in February, March and May, 1997.

4. On or about October 15, 1997 a nurse notified the Respondent that a quantity of controlled substance was missing from the clinic. After a count of the medication was conducted, the Respondent advised a staff member to contact Tenet Corporation to advise of the situation. Tenet conducted a follow-up investigation and this Board thereafter suspended Respondent's license

pending a review and disposition.

5. On or about October 23, 1997 the Board received a complaint alleging that Respondent had personally used a controlled substance while engaging in the practice of medicine as well as prescribing controlled substances without appropriate medical records.

6. On or about October 24, 1997 the Respondent admitted that she had personally used a controlled substance prescribed by her physician, while engaging in the practice of medicine. In addition, the Respondent admitted to having prescribed controlled substances without maintaining all appropriate medical records.

7. On or about October 24, 1997, the Board held a public meeting by telephone conference call to review the information regarding Respondent. The Board, at that time, issued an Order for Summary Suspension of License. The Findings of Fact by the Board in that Order are hereby incorporated by this reference.

8. On October 26, 1997 Respondent voluntarily admitted herself into Springbrook Northwest Rehabilitation Center for an inpatient evaluation to determine whether she was possibly addicted to her prescribed pain medication.

9. On October 30, 1997 Respondent was released from Springbrook Northwest with an assessment that she did not have a substance abuse addiction. In addition, the facility also indicated that there was no evidence that the medications had impaired the Respondent's professional performance. The facility did, however, make the following recommendations: 1) that the Respondent attend a prescribing workshop, and 2) that the Respondent participate in some co-dependency counseling.

10. Respondent has requested that the Board releases her license from suspension and that she enter into a Stipulated Consent Order for Probation for a five-year period. During the course of her probation, the Respondent agrees to pursue co-dependency counseling, continuing medical education requirements, prescription and record-keeping monitoring. In public session the Board voted on December 13, 1997 to authorize the Board's Executive Director to sign and issue a Stipulated Consent Order regarding Respondent which follows hereinafter.

CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. The Board has the authority to enter into a stipulated order for disciplinary action against a license, pursuant to A.R.S. § 41-1061(D), A.R.S. § 32-1855 and A.R.S. § 32-1861(D).

3. The Respondent engaged in unprofessional conduct as defined in A.R.S. § 32-1854 by violating federal and state statutes and regulations concerning the prescription and use of controlled substances.

4. Based upon the Findings of Fact set forth above herein, the Board concludes that it has the requisite factual basis and legal authority to order probation of Respondent's license.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Respondent's Board License Number 3090 for the practice of osteopathic medicine and surgery in the State of Arizona is hereby placed under probation for five (5) years and shall comply with the terms and conditions of probation as set forth herein. That period may be shortened

upon application by the Respondent and approval by the Board. Respondent may not request any modification during the first year of probation.

2. From the date of this Order, Respondent shall obtain psychiatric or psychological treatment to address any co-dependency issues by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board. Respondent shall comply with the therapist recommendation for the frequency of therapy treatment sessions. Respondent shall inform the Board by letter (mailed within ten days of the date of this Order) of the therapist's name; and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, she shall give the Board written notice within ten (10) days of said action. If no further therapy is needed, the therapist shall so notify the Board in writing. Respondent shall not discontinue or reduce the frequency of psychotherapy sessions until she has submitted a written request to the Board and obtained Board approval.

3. Respondent's therapist(s) shall receive a copy of this Order and Board Staff shall cooperate with and disclose all relevant information in the Board's files concerning Respondent. The treating therapist shall be directed by Respondent to send to the Board a detailed written progress report every month for the first six (6) months, then every three (3) months for the remainder of the therapy; and Respondent, shall waive any confidentiality concerning her psychotherapy in order that the Board may receive full disclosure of information. The expense of the aforementioned therapy and the reports to the Board by Respondent's therapist shall be the sole responsibility of the Respondent.

4. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order.

5. Respondent may have her license to practice as an osteopathic physician restricted, suspended or revoked by the Board in the future if:

- (A) The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
- (B) There are new grounds for finding unprofessional conduct concerning Respondent; or,
- (C) Fails to comply fully with the terms and conditions of this Order.

6. Respondent shall not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless the treating physician prescribes such medication for Respondent. Respondent shall maintain a monthly log (for the duration of probation) of all prescription only drugs taken by him and such log shall include the following information:

- (a) the name of the medication;
- (b) name of prescribing physician;
- (c) reason for the medication.

At the first of each month, Respondent shall report by letter to the Board whether or not she is taking any prescription only medication and, if so, a copy of the log reflecting the above information.

7. Respondent shall also, as part of her probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e., within sixty (60) minutes of notification) required biological fluids for testing and said testing shall be done at the Respondent's expense.

8. Respondent shall participate in a mini-residency program regarding proper prescription habits within six months of the date of this Order and shall obtain at least twenty continuing medical education ("CME") credits in prescription authority and procedures in the first two years of this Stipulated Consent Order. This additional twenty CME credits is above the required amount of CMEs required for renewal of licensure.

9. This Order shall supersede and replace all prior orders of the Board concerning Respondent.

10. In the event Respondent ceases to reside in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to Arizona.

11. Respondent shall reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter.

12. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

13. The Board's Executive Director shall send correspondence to the appropriate state and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent, i.e., illicit use of controlled substances and obtaining controlled substances illegally.

18. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED this 5th day of December, 1997.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Berger
Ann Marie Berger, Executive Director
9535 E. Doubletree Ranch Rd.
Scottsdale AZ 85258
Telephone: (602) 657-7703 (ext. 22)

Served by personal service or
sending U.S. certified mail
this 7th day of December, 1997 to:

Virginia Rutz, D.O.
7601 N. Calle Sin Envidia #54
Tucson AZ 85718-1273

Copy mailed this 17th day of December, 1997 to:

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007 (w/enclosure)

Cari Dangerfield, Esq.
P.O. Box 2310
Tucson AZ 85702

Arizona Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix AZ 85015

Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St
Phoenix AZ 85012

Anita Boyd

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2343
)	
VIRGINIA RUTZ, D.O.)	STIPULATION AND CONSENT
Holder of License No. 3090 for the)	ORDER
practice of osteopathic medicine in the)	
State of Arizona.)	
_____)	

STIPULATION

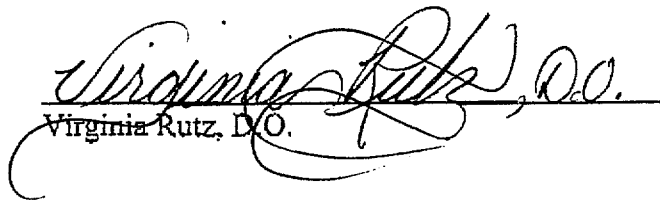
By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Virginia Rutz, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that she has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.
2. Respondent understands that by entering into this Stipulation, she voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the Consent Order in state or federal court.
3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public record which will be disseminated as a formal action of the Board.
5. Respondent admits to the statement of facts and conclusions of law contained in the Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

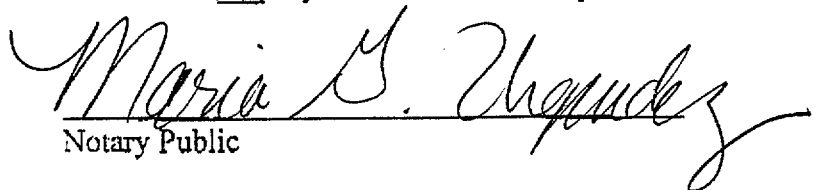
7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, she may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

REVIEWED AND ACCEPTED this 12th day of December 1997.

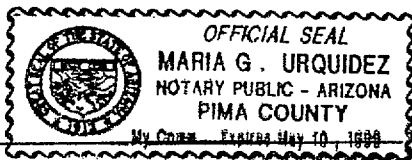

Virginia Rutz, D.O.

STATE OF ARIZONA)
) ss
County of Pima)

This instrument was acknowledged before me this 12th day of December 1997 by the above-named individual.


Notary Public

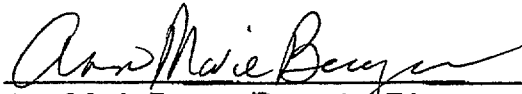
My Commission expires:



REVIEWED AND APPROVED as to form by counsel for Respondent on this 12th day of
December 1997.

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a long horizontal stroke.

REVIEWED AND SIGNED this 15th day of December, 1997 for the Board by:

A handwritten signature in black ink, reading 'Ann Marie Berger' in a cursive script.

Ann Marie Berger, Executive Director
Arizona Board of Osteopathic Examiners in Medicine
and Surgery